

FCC MAIL SECTION

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

FCC 95M-28
50750

DISPATCHED BY

In Matter of)	WT DOCKET NO. 94-147
)	
JAMES A. KAY, JR.)	
)	
Licensee of one hundred sixty)	
four Part 90 licenses in the)	
Los Angeles, California area.)	

ORDER

Issued: January 30, 1995 ; Released: February 1, 1995

After discussion with counsel on-the-record, the following bench rulings were made at the first Prehearing Conference that was held on January 27, 1995:

February 3, 1995	Bureau to notify Presiding Judge of the date on which it intends to offer evidence in Los Angeles and of the presently estimated number of days of the Los Angeles hearing. ¹
February 10, 1995	Respondent Kay may serve Interrogatories on the Bureau under the terms and limitations of §1.311(b) but only with respect to the paragraphs of the Order To Show Cause (FCC 94-315) which allege substantive violations of the Respondent Kay. There will be a limit of ten questions (without subparts) for each paragraph. ²

¹ It will be necessary to reserve courtroom space in Los Angeles and therefore this information is needed as soon as practicable. There also will need to be a date set for the testimony of James A. Kay, Jr. ("Kay") in Washington, D.C. If the Bureau intends to call Kay as its witness in its case-in-chief, the Bureau should advise whether Kay will be called before or after the Los Angeles hearing session. Kay is expected to testify in his own defense and that testimony also will be taken in Washington, D.C. immediately following his testimony in the Bureau's case-in-chief. There may also be testimony of other witnesses taken in Washington, D.C.

² The Bureau is urged to cooperate in responding to Kay's request for more specific allegations. For example, "stations" are referred to in various places of Paragraph 2 of the Show Cause Order and Kay should be furnished the identification of each of the stations. Kay's counsel have requested that they are interested only in obtaining more specific allegations. It might be feasible to discuss informally based on the interrogatory questions and then reduce those discussions to a stipulation of allegations.

February 17, 1995	Bureau commences formal discovery by serving Interrogatories and Requests To Admit. Depositions will be noticed by Bureau counsel as information becomes available through Kay's responses to the Bureau's first wave of discovery. ³
March 30, 1995	Bureau concludes its discovery.
May 26, 1995	Bureau exchanges its documentary evidence, ⁴ sworn written statements which it expects to introduce ⁵ , and a list of the identity and addresses of witnesses who will be called as Bureau witnesses and a brief summary of their testimony.
June 16, 1995	Kay exchanges its documentary evidence, any sworn written statements which he expects to introduce, and a list of the identity and addresses of witnesses who will be called as Kay's witnesses and a brief summary of their testimony.
June 20, 1995	Parties to submit proposed trial subpoenas to Presiding Judge.
June 22-23, 1995	Admissions session in Washington, D.C. to receive the evidence that was exchanged, to determine whether there will be cross-examination of witnesses submitting sworn statements, and to discuss whether there will be rebuttal.

³ The Presiding Judge has directed the Bureau to exchange its hearing evidence ten days before Kay's exchange. (Cf. Order FCC 92M-795 (MM Docket No. 92-122), released July 20, 1992.) In this way, Kay will discover the Bureau's hearing evidence in advance of its own exchange date. This procedure is adopted at this stage of the proceeding in order to keep the discovery of the Bureau at a minimum so that the Bureau may stay focused on discovery and trial preparation. However, this limitation does not preclude Kay from requesting additional discovery by motion directed to the Presiding Judge, provided that good cause is shown for the discovery.

⁴ For organization of documentary evidence, see Presiding Judge's Order FCC 94M-653, released December 22, 1994, at fn.3.

⁵ This procedure of sworn written testimony would be limited primarily to testimony to authenticate records. In a revocation proceeding, it is expected that almost all testimony will be live with the right of cross-examination.

July 17, 1995

Hearing to commence.⁶

The parties are now bound by these procedural dates unless there is a good cause shown for an extension of time or a continuance.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, reading "Richard L. Sippel".

Richard L. Sippel
Administrative Law Judge

⁶ The hearing date set for March 27, 1995 in the assignment order is cancelled. It is still to be determined whether the hearing will start in Los Angeles or in Washington, D.C. See fn.1 above.